

## CCRB INVESTIGATIVE RECOMMENDATION

|  |                                     |                           |  |   |                                 |
|--|-------------------------------------|---------------------------|--|---|---------------------------------|
| Investigator:<br>Jean Paul Lozada                | Team:<br>Squad #2                   | CCRB Case #:<br>201800979 | <input checked="" type="checkbox"/> Force              | <input checked="" type="checkbox"/> Discourt. | <input type="checkbox"/> U.S.   |
|  |                                     |                           | <input checked="" type="checkbox"/> Abuse              | <input checked="" type="checkbox"/> O.L.      | <input type="checkbox"/> Injury |
| Incident Date(s)<br>Friday, 01/26/2018 9:00 PM   | Location of Incident:<br>[REDACTED] | Precinct:<br>81           | 18 Mo. SOL<br>7/26/2019                                | EO SOL<br>7/26/2019                           |                                 |
| Date/Time CV Reported<br>Sat, 01/27/2018 7:35 PM | CV Reported At:<br>IAB              | How CV Reported:<br>Phone | Date/Time Received at CCRB<br>Mon, 02/05/2018 10:59 AM |   |                                 |

| Complainant/Victim | Type       | Home Address |
|--------------------|------------|--------------|
| [REDACTED]         | [REDACTED] | [REDACTED]   |
| [REDACTED]         | [REDACTED] | [REDACTED]   |
| [REDACTED]         | [REDACTED] | [REDACTED]   |
| [REDACTED]         | [REDACTED] | [REDACTED]   |

| Witness(es) | Home Address |
|-------------|--------------|
| [REDACTED]  | [REDACTED]   |
| [REDACTED]  | [REDACTED]   |
| [REDACTED]  | [REDACTED]   |

| Subject Officer(s)        | Shield | TaxID  | Command |
|---------------------------|--------|--------|---------|
| 1. POM Leonard Clarke     | 27183  | 940013 | 084 PCT |
| 2. SDS David Cheesewright | 01990  | 913752 | INT CIS |
| 3. DI Charles Minch       | 00000  | 921598 | 079 PCT |
| 4. An officer             |        |        |         |

| Witness Officer(s)       | Shield No | Tax No | Cmd Name |
|--------------------------|-----------|--------|----------|
| 1. POF Tahmeka Barnes    | 12099     | 941392 | 081 PCT  |
| 2. POM Mina Tadros       | 03638     | 961344 | 081 PCT  |
| 3. DT2 Lawrence Hotaling | 02671     | 897695 | 084 PCT  |
| 4. POM Andrew Kamna      | 24865     | 943423 | 073 PCT  |
| 5. POM John Uske         | 02554     | 939622 | 084 PCT  |
| 6. CPT Ronald Zedalis    | 00000     | 927702 | C S O    |
| 7. DTS Michael Gannon    | 4090      | 934896 | ESS 07   |
| 8. DTS James Shields     | 05032     | 927515 | ESS 07   |
| 9. SSA Dominic Casalino  | 03578     | 901290 | ESS 10   |
| 10. POM Matthew Gale     | 05617     | 948993 | ESS 10   |
| 11. DTS Paul McCartney   | 4238      | 938977 | ESS 10   |
| 12. DTS Robert Fresneda  | 5305      | 945736 | ESS 06   |
| 13. DTS Jared Popp       | 7497      | 935533 | ESS 08   |
| 14. DTS John Digregorio  | 01772     | 932551 | ESS 08   |
| 15. DT2 Robert Zajac     | 07443     | 896804 | ESS 07   |
| 16. POM Ryan Galvin      | 08096     | 948997 | ESS 08   |
| 17. DTS Daniel Neems     | 7489      | 935393 | ESS 10   |
| 18. DTS Peter Connolly   | 06354     | 925109 | ESS 07   |

| <b>Witness Officer(s)</b>   | <b>Shield No</b> | <b>Tax No</b> | <b>Cmd Name</b> |
|-----------------------------|------------------|---------------|-----------------|
| 19. DTS Albert Romano       | 4279             | 940667        | ESS 06          |
| 20. DTS Robert Romano       | 7517             | 939363        | ESS 08          |
| 21. POM Kellan Oneill       | 10409            | 952069        | PSA 3           |
| 22. POM Christophe Griffith | 00258            | 951791        | 077 PCT         |

| <b>Officer(s)</b>        | <b>Allegation</b>  | <b>Investigator Recommendation</b> |
|--------------------------|--|------------------------------------|
| A.POM Leonard Clarke     | Abuse: Police Officer Leonard Clarke entered § 87(2)(b) in Brooklyn.                     |                                    |
| B.POM Leonard Clarke     | Abuse: Police Officer Leonard Clarke searched § 87(2)(b) in Brooklyn.                    |                                    |
| C. An officer            | Abuse: An officer threatened § 87(2)(b)'s dog with the use of force.                     |                                    |
| D. An officer            | Abuse: An officer threatened § 87(2)(b) with the use of force.                           |                                    |
| E. An officer            | Force: An officer used physical force against § 87(2)(b)                                 |                                    |
| F. An officer            | Abuse: An officer took a photograph of § 87(2)(b)  |                                    |
| G.DI Charles Minch       | Abuse: Deputy Inspector Charles Minch threatened to arrest § 87(2)(b)                    |                                    |
| H. An officer            | Abuse: An officer threatened to arrest § 87(2)(b)  |                                    |
| I.SDS David Cheesewright | Abuse: Sergeant David Cheesewright refused to show the search warrant to § 87(2)(b)      |                                    |
| J.SDS David Cheesewright | Abuse: Sergeant David Cheesewright refused to show the search warrant to § 87(2)(b)      |                                    |
| K. An officer            | Off. Language: An officer made remarks to § 87(2)(b) based upon the gender of § 87(2)(b) |                                    |
| L. An officer            | Abuse: An officer made sexually suggestive remarks to § 87(2)(b)                         |                                    |
| M. An officer            | Discourtesy: An officer spoke discourteously to § 87(2)(b)                               |                                    |

## Case Summary

On January 27, 2018, § 87(2)(b) filed this complaint on behalf of herself and her housemates § 87(2)(b) and § 87(2)(b) with the Internal Affairs Bureau via telephone, generating IAB Log # 2018-4125. This complaint was forwarded to the CCRB, where it was received on February 5, 2018. The case was originally assigned to Inv. Jennifer Smith but was reassigned to Inv. Raquel Velasquez on February 22, 2018, and was reassigned to SI Jean-Paul Lozada on October 9, 2018.

On January 26, 2018, at approximately 9:00 p.m., Deputy Inspector Charles Minch of the 79<sup>th</sup> Precinct, Sergeant David Cheesewright of the Intelligence Bureau Criminal Intelligence Section, Police Officer Leonard Clarke of the 84<sup>th</sup> Precinct, and numerous additional officers from various commands executed a search warrant at § 87(2)(b) in Brooklyn (**Allegations A and B: Abuse of Authority – Entry and Search, § 87(2)(g)**). § 87(2)(b) attempted to put a dog into a crate, and an unidentified officer allegedly said, “If the dog moves, we are going to shoot it and probably shoot you.” (**Allegations C and D: Abuse of Authority – Threat of Force, § 87(2)(g)**). An unidentified officer allegedly pushed § 87(2)(b) against a wall and to the ground (**Allegation E: Force – Physical Force, § 87(2)(g)**). An unidentified officer allegedly took a photograph of § 87(2)(b) (**Allegation F: Abuse of Authority - Photograph, § 87(2)(g)**). Deputy Inspector Minch allegedly said, “If we find a gun, everyone is going to have to take that charge,” (**Allegation G: Abuse of Authority – Threat of Arrest, § 87(2)(g)**). An unidentified officer allegedly said to § 87(2)(b) “If you don’t tell us where the gun is, we’re going to arrest you.” (**Allegation H: Abuse of Authority – Threat of Arrest, § 87(2)(g)**). § 87(2)(b) said she did not know about any gun, and the officer allegedly told her that if they did not find a gun, he would arrest her and she would be the only one arrested (**within Allegation H**). § 87(2)(b) and § 87(2)(b) allegedly asked to see the search warrant numerous times and were allegedly not shown the warrant (**Allegation I: Abuse of Authority – Refusal to Show Search Warrant, § 87(2)(g)**; **Allegation J: Abuse of Authority – Refusal to Show Search Warrant, § 87(2)(g)**). An officer allegedly called § 87(2)(b) a “vagina” and made unspecified sexual “innuendos” towards him (**Allegation K: Offensive Language - Gender & Allegation L: Abuse of Authority – Sexual Harassment, § 87(2)(g)**). § 87(2)(b) allegedly asked to see the search warrant, and an unidentified officer allegedly replied, “Get the fuck out of here.” (**within Allegation I; Allegation M: Discourtesy, § 87(2)(g)**). § 87(2)(b) was issued a summons for § 87(2)(b) (Board Review 16), and no arrests were made.

No video footage was found in this case.

## Findings and Recommendations

**Allegation (A) Abuse of Authority: Police Officer Leonard Clarke entered § 87(2)(b) in Brooklyn.**

**Allegation (B) Abuse of Authority: Police Officer Leonard Clarke searched § 87(2)(b) in Brooklyn.**

§ 87(2)(b) provided a telephone statement on February 7, 2018 (Board Review 01) and was interviewed at the CCRB on February 8, 2018. § 87(2)(b) was not present at § 87(2)(b) at the time of the incident. § 87(2)(b) provided a telephone statement on

February 7, 2018 (Board Review 02) and declined to provide a sworn statement. § 87(2)(b) provided a telephone statement on February 8, 2018 (Board Review 03) and was interviewed at the CCRB on February 15, 2018. A photo-viewing interview was conducted with § 87(2)(b) on February 5, 2019 (Board Review 04). § 87(2)(b) provided a telephone statement on March 14, 2018, and she stated that she had never been to § 87(2)(b) and was unfamiliar with the incident in question (Board Review 05). § 87(2)(b) provided a telephone statement on February 5, 2019, and she stated that she was not at § 87(2)(b) at the time of the incident (Board Review 06). The investigation was unable to be establish contact with § 87(2)(b) § 87(2)(b)

Police Officer Leonard Clarke of the 84<sup>th</sup> Precinct was interviewed on July 27, 2018. Sergeant Cheesewright was interviewed on July 27, 2018. Deputy Inspector Minch was interviewed on January 3, 2019. Police Officer Raul Torres of the 81<sup>st</sup> Precinct was interviewed on October 23, 2018.

The investigation has determined that the officers' entry into and search of § 87(2)(b) in Brooklyn on January 26, 2018, was in accordance with valid Kings County search warrant number § 87(2)(b) which was signed by the Hon. § 87(2)(b) on § 87(2)(b) (Board Review 15). The search warrant lists Police Officer Clarke as the officer who applied for the warrant. § 87(2)(g)

**Allegation (C) Abuse of Authority: An officer threatened § 87(2)(b) s dog with the use of force.**

**Allegation (D) Abuse of Authority: An officer threatened § 87(2)(b) with the use of force.**

**Allegation (H) Abuse of Authority: An officer threatened to arrest § 87(2)(b)**

**Allegation (J) Abuse of Authority: Sergeant David Cheesewright refused to show the search warrant to § 87(2)(b)**

In her telephone statement on February 7, 2018, § 87(2)(b) stated that while she was in the living room, she attempted to put a dog into its crate, and a 5'8"-tall black male officer with a medium skin tone, light brown eyes, and a very heavy build allegedly told her, "If the dog moves, we are going to shoot it and probably shoot you." § 87(2)(b) also alleged that a 5'8"-tall white male officer in his 30s with a medium build said to her, "If you don't tell us where the gun is, we're going to arrest you." § 87(2)(b) said she did not know about any gun, and the officer allegedly told her that if they did not find a gun, he would arrest her and she would be the only one arrested. § 87(2)(b) also stated that she asked to see the search warrant multiple times and was allegedly told that she could not see it because she was not the owner of the house. § 87(2)(b) was ultimately issued a summons for marijuana. § 87(2)(b) made no mention of witnessing any of these allegations.

§ 87(2)(b) informed the CCRB that she did not wish to participate in this complaint beyond the telephone statement that she provided. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation (E) Force: An officer used physical force against § 87(2)(b)**

**Allegation (M) Discourtesy: An officer spoke discourteously to § 87(2)(b)**

§ 87(2)(b) stated that § 87(2)(b) complained that an unidentified officer “slammed” him against a wall and threw him down to the ground, but she made no mention of seeing this herself. She also stated that at the conclusion of the incident, § 87(2)(b) asked to see the search warrant, and an officer told him to “get the fuck out of here.”

§ 87(2)(b) stated that she was not present at the incident location during the incident, but stated that § 87(2)(b) told her later that an officer “body slammed” him.

§ 87(2)(b) made no mention of any force being used against § 87(2)(b). He stated that he was informed by § 87(2)(b) and § 87(2)(b) that when § 87(2)(b) asked to see the search warrant, an officer allegedly replied, “Get the hell up out of here.” He did not witness this interaction himself.

On April 20, 2018, a call was made to § 87(2)(b) at the telephone number provided for him by § 87(2)(b) and the respondent stated that the wrong number was dialed. Unreturned letters were mailed to § 87(2)(b) at § 87(2)(b) on February 7, 2018 and February 16, 2018.

Searches of Lexis Nexis and CLEAR yielded three additional telephone numbers and one additional address for § 87(2)(b). On a call made to the first number on April 27, 2018, and the respondent stated that the wrong number was dialed. Between April 27, 2018 and May 9, 2018, five calls were made to the remaining two numbers, and there was no response or active voicemail capability on any of these calls. Unreturned letters were mailed to this address on April 27, 2019 and May 2, 2019.

§ 87(2)(g)

**Allegation (F) Abuse of Authority: An officer took a photograph of § 87(2)(b)**

§ 87(2)(b) stated that while he was in his bedroom on the second floor, an officer asked him for his name and phone number and then took his photograph. § 87(2)(b) described this officer as a white or Hispanic male in plainclothes who was 5’11” tall and had a heavy or muscular build and black hair.

Police Officer Clarke, Sergeant Cheesewright, and Deputy Inspector Minch each denied taking § 87(2)(b) photograph and were unaware of any other officer doing so.

§ 87(2)(g)

On February 5, 2019, a single-shot photo-viewing interview was conducted with § 87(2)(b) in which he was shown photographs of each of the officers who were named on the Tactical Plan, and he was unable to identify the officer who allegedly photographed him.

§ 87(2)(g)

**Allegation (G) Abuse of Authority: Deputy Inspector Charles Minch threatened to arrest**

§ 87(2)(b)

§ 87(2)(b) stated that while he and the other tenants were together in the living room, Deputy Inspector Minch said, “If we find a gun, everyone is going to have to take that charge. So, y’all better hope there are no guns in here.”

§ 87(2)(b) made no mention of any officer making such a threat.

Deputy Inspector Minch denied threatening to arrest § 87(2)(b) and the other occupants if a gun was found. Police Officer Clarke and Sergeant Cheesewright stated that they did not hear any officer make this statement.

§ 87(2)(g)

**Allegation (I) Abuse of Authority: Sergeant David Cheesewright refused to show the search warrant to** § 87(2)(b)

§ 87(2)(b) stated that while he and § 87(2)(b) were in the living room, § 87(2)(b) asked Deputy Inspector Minch to show him the search warrant, and Deputy Inspector Minch allegedly replied, “We’ll show it to you on the way out.” § 87(2)(b) asked to see the warrant approximately seven more times, and an unidentified officer told him that he would see the warrant. § 87(2)(b) and § 87(2)(b) later told § 87(2)(b) that they had asked to see the warrant again as the officers were on their way out, and an officer allegedly replied, “Get the hell up out of here.” § 87(2)(b) did not witness this portion of the incident. § 87(2)(b) made no mention of requesting to see the search warrant himself or of hearing § 87(2)(b) request to see it.

§ 87(2)(b) stated that she, § 87(2)(b) and § 87(2)(b) each asked to see the search warrant multiple times, and an unidentified officer told them that they could not see the warrant because they did not own the home. § 87(2)(b) stated that after the officers removed their handcuffs, § 87(2)(b) asked to see the search warrant again, and an unidentified officer allegedly replied, “Get the fuck out of here.” (This Discourtesy: Word allegation is addressed in Allegation M.)

§ 87(2)(b) who was not present at the time of the incident, stated that § 87(2)(b) told her that the officers never showed her the search warrant.

Sergeant Cheesewright stated that he carried a copy of the search warrant and that he was solely responsible for showing it to the civilians upon request. He did not recall whether anyone asked to see the search warrant, and he did not hear anyone ask any other officer to show the search warrant.

Deputy Inspector Minch stated that no civilian asked him to show the search warrant and that he did not hear any civilian ask any other officer to show the warrant. At no point did Deputy Inspector Minch instruct any officer to show the warrant. Deputy Inspector Minch did not believe the search warrant was shown to the occupants of the residence in his presence.

Police Officer Clarke stated that none of the occupants asked him or any other officer to show the search warrant. He stated that Sergeant Cheesewright carried the search warrant during the incident and would have been the one responsible to show it if requested.

§ 87(2)(g)

**Allegation (K) Offensive Language: An officer made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)**

**Allegation (L) Abuse of Authority: An officer made sexually suggestive remarks to § 87(2)(b)**

§ 87(2)(b) stated that § 87(2)(b) asked an officer to loosen his handcuffs, and the officer loosened them and allegedly told him that he was a “vagina.” This officer then allegedly made sexual “innuendos” to § 87(2)(b). § 87(2)(b) did not recall the specific comments that were made to § 87(2)(b) but he noted that they were akin to what “a man on a Saturday night” would say. § 87(2)(b) described this officer as a 5’8”-tall white male in plainclothes who was in his 30s and had a stocky build, red hair, and red facial hair.

§ 87(2)(b) stated that an officer called § 87(2)(b) a “vagina” after he complained that he had been slammed into a wall and thrown to the floor. She described this officer as a 5’8”-tall white male in his 30s with a medium build.

Police Officer Clarke, Sergeant Cheesewright, and Deputy Inspector Minch each denied calling § 87(2)(b) a “vagina” and hearing any other officer do so.

None of the officers listed on the Tactical Plan had red hair or red facial hair (Board Review 07, 08). The investigation was unable to determine the identity of this officer based on § 87(2)(b) and § 87(2)(b)’s physical descriptions alone.

On February 5, 2019, a single-shot photo-viewing interview was conducted with § 87(2)(b) in which he was shown photographs of each of the officers who were named on the Tactical Plan, and he was unable to identify the officer who allegedly called § 87(2)(b) a “vagina” and made sexual “innuendos” towards § 87(2)(b).

§ 87(2)(g)

### **Allegations Not Pleaded**

- § 87(2)(b) stated that an unidentified uniformed black male officer male “verbal advancements” towards § 87(2)(b) and allegedly called her “pretty” and a “nice-looking girl.” However, § 87(2)(b) stated that she was not present at the incident location during the incident. As such, no verbal sexual harassment allegation is pleaded in regards.

### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) and § 87(2)(b) have been parties (Board Review 12).
- § 87(2)(b) has been party to one additional CCRB complaint and has been named as a victim in two additional allegations (Board Review 12).
  - § 87(2)(b)
- § 87(2)(b) has been party to one additional CCRB complaint and has been named as a victim in an unknown number of allegations (Board Review 12).
  - § 87(2)(b)
- Deputy Inspector Charles Minch has been a member-of-service for 20 years and has been a subject in four additional complaints and 10 additional allegations, none of which were substantiated. § 87(2)(g)
- Sergeant David Cheesewright has been a member-of-service for 27 years and has been a subject in 33 additional complaints and 80 additional allegations, of which 16 were substantiated.
  - 200202002 involved substantiated Physical Force, Vehicle Search, and Threat of Force allegations. The Board recommended charges and the NYPD found Sergeant Cheesewright not guilty.
  - 200202912 involved substantiated Stop, Question, Frisk, Search, Vehicle Stop, and Refusal to Provide Name/Shield Number allegations. The Board recommended charges and the NYPD imposed a penalty of instructions.
  - 200205206 involved substantiated Vehicle Stop, Frisk, Vehicle Search, and Retaliatory Summons allegations. The Board recommended charges and the NYPD dismissed these charges and has not yet imposed discipline.
  - 200600042 involved substantiated Gun Drawn, Premises Entered/Searches, and Property Damaged allegations. The Board recommended charges and the NYPD declined to prosecute and took no disciplinary action.
  - Six additional Refusal to Show Search Warrant allegations have been pleaded and unsubstantiated against Sergeant Cheesewright. Specifically, it was alleged in 201503435, 201706542, 201707608, 201709517, and 201807245 that occupants of homes where search warrants were executed asked to see the warrants and were not shown them. 201807245 is currently under investigation, while each of the other such allegations were unsubstantiated. In the current case, it was alleged that § 87(2)(b) and § 87(2)(b) asked to see the search warrant and were not shown one.



**Mediation, Civil and Criminal Histories**

- This complaint was not suitable for mediation.
- § 87(2)(b) filed a Notice of Claim with the City of New York (Board Review 13) claiming unlawful entry; trespass; trespass to chattel; larceny; invasion of privacy; assault; battery; unlawful imprisonment; false arrest; malicious prosecution; malicious abuse of process; failure to intervene; gross negligence; negligent screening, hiring, training, retention, and supervision; negligent infliction of emotional distress; intentional infliction of emotional distress, prima facie tort; and violations and deprivations of her rights under the New York State Constitution. She is seeking \$250,000 as redress.
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (Board Review 14).
- § 87(2)(b) [REDACTED]
- § 87(2)(b) [REDACTED]
- § 87(2)(b) [REDACTED]
- § 87(2)(b) [REDACTED]

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Squad No.: 02

|               |                    |                             |               |
|---------------|--------------------|-----------------------------|---------------|
| Investigator: | _____<br>Signature | _____<br>Print Title & Name | _____<br>Date |
|---------------|--------------------|-----------------------------|---------------|

|               |                    |                             |               |
|---------------|--------------------|-----------------------------|---------------|
| Squad Leader: | _____<br>Signature | _____<br>Print Title & Name | _____<br>Date |
|---------------|--------------------|-----------------------------|---------------|

|           |                    |                             |               |
|-----------|--------------------|-----------------------------|---------------|
| Reviewer: | _____<br>Signature | _____<br>Print Title & Name | _____<br>Date |
|-----------|--------------------|-----------------------------|---------------|